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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | | | | | | | | | | |
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| 08/732,408 | 12/09/1996 | JOHANNES REINMULLER | HUBR1099PFFM | 7906 | | | | | | | | | | |
| 7590 02/24/2009 FULBRIGHT AND JAWORSKI 666 FIFTH AVE NEW YORK, NY 10103 | | <table border="1"><tr><td>EXAMINER</td></tr><tr><td>PELLEGRINO, BRIAN E</td></tr></table> <table border="1"><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3738</td><td></td></tr></table> <table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>02/24/2009</td><td>PAPER</td></tr></table> | | | EXAMINER | PELLEGRINO, BRIAN E | ART UNIT | PAPER NUMBER | 3738 | | MAIL DATE | DELIVERY MODE | 02/24/2009 | PAPER |
| EXAMINER | | | | | | | | | | | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JOHANNES REINMULLER

Application No. 08/732,408
Technology Center 3700

Mailed: February 23, 2009

Before GLORIA HENDERSON, *Review Team Paralegal*
HENDERSON, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on February 17, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER

The Examiner's Answer mailed on February 21, 2006, states under the Evidence Relied Upon section, page 3 that "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that prior art was applied to the Rejections on appeal. See the Grounds of rejection on page 4 and 5 of the Examiner's Answer. The Manual of Patent Examining Procedure, (MPEP), in §1207.02 states:

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) 1) to hold the Examiner's Answer mailed February 21, 2006, defective;
- 2) to issue and mail a Form PTOL-90, amending and/or correcting the Examiner's Answer (Evidence Relied Upon) section; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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